SEC. 3. COMPASSIONATE RELEASE TECHNICAL CORRECTION.

Section 3582 of title 18, United States Code, is amended—

(1) in subsection (c)(1)—

(A) in the matter preceding subparagraph (A), by inserting after ''case'' the following: '', including, notwithstanding any other provision of law, any case involving an offense committed before November 1, 1987''; and

(B) in subparagraph (A)—

(i) by inserting '', on or after the date described in subsection (d)'' after ''upon motion of a defendant''; and

(ii) by striking ''after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier,'';

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following:

''(d) DATE DESCRIBED.—For purposes of subsection (c)(1)(A), the date described in this subsection is the earlier of—

''(1) the date on which the defendant fully exhausts all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf; or

''(2) the expiration of the 30-day period beginning on the date on which the defendant submits a request for a reduction in sentence to the warden of the facility in which the defendant is imprisoned, regardless of the status of the request.''.

By Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. KING, Mr. BRAUN, Mr. BLUMENTHAL, Mr. VANCE, and Ms. BALDWIN):

S. 1250. A bill to amend title XI of the Social Security Act to require that direct-to-consumer advertisements for drugs and biologicals include an appropriate disclosure of pricing information; to the Committee on Finance.

Mr. DURBIN. Madam President, most Americans spent more time at home watching television during the pandemic. I know I did. And what was one of the most common commercials we saw? Direct-to-consumer drug ads. You know, those fancy commercials with catchy music, celebrity actors, and swinging golf clubs? Even before COVID, Americans saw an average of nine ads per day. Every year, the pharmaceutical industry spends more than $6 billion on ads—$6 billion. That is the same as the entire budget of the Food and Drug Administration. In fact, we know that most top Pharma companies spend more on their advertising budget than on drug research and development.

It turns out, the United States is one of only two countries in the world that even allows these commercials. Can you guess the other? New Zealand.

Do you want to know why Pharma spends so much money promoting their drugs? Because it increases their profit margins. Pharma pushes these ads because they steer patients to specific, expensive medications—whether a patient actually needs the drugs or not. And sometimes it is easier in a 10-minute meeting for the doctor to just write the prescription than to take the time to explain why the drug may not be needed or a less expensive, generic version might be a better choice. Pharma thinks if they pummel you with enough ads that you finally learn how to spell Xarelto, you will insist to your doctor that this is the blood thinner you need though a less expensive option would be just as effective.

With billions in targeted spending, patients are bombarded with information—don't take Xarelto if you are allergic to Xarelto—but kept in the dark on one crucial factor—the price.

Take Rinvoq, which is manufactured by Illinois-based AbbVie for eczema and arthritis. It is now the most-advertised drug on television—replacing two other AbbVie medications, Humira and Skyrizi. AbbVie spent $315 million last year on TV ads for Rinvoq alone. But nowhere in the ad do they tell you it costs $6,100 per month.

Well, Senator GRASSLEY and I think it is time for Big Pharma to end the secrecy. If they are advertising a drug, they should disclose the price right up front. It is a basic transparency measure for patients. Consumer protection 101. So today, we are reintroducing bipartisan legislation to require price disclosures in direct-to-consumer drugs ads, or DTC ads. Our plan is simple, and it has actually passed the Senate once before.

Here is why we think this transparency in drug ads is so important. Earlier this year, a study found that more than two-thirds of drugs advertised on television were considered, quote, ''low-value.'' Those pricey drugs that show you whitewater rafting or rock climbing? They are often no better than other, more affordable drugs.

One-in-five Americans do not take their medications as prescribed because of the cost. They cut their pills in half or skip doses because they can't afford to take their medications as prescribed. So don't you think it is worth knowing right away that Rinvoq could run you $6,100 per month rather than waiting for that moment of truth at the pharmacy counter?

Don't just take my word for it. These advertisements often urge you to ''ask your doctor if it is right for you.'' Well, we asked those doctors. The American Medical Association says: ''Direct-to-consumer advertising inflates demand for new and expensive drugs, even when these drugs may not be appropriate.''

As Democrats are working in Washington to avoid default and prevent our economy from crashing and to preserve the solvency of Medicare, we asked the Government Accountability Office, GAO, to look at the impact of these DTC ads on Medicare's budget. The GAO found that between 2016 and 2018, drugs advertised on television accounted for 58 percent of Medicare's spending. These DTC ads ballooned Medicare spending on a small handful of drugs, costing the Medicare Program $320 billion over 3 years. Humira topped the list with $500 million in advertising in 2018, which contributed to $2.4 billion in Medicare costs.

I used this chart in 2017 when I first introduced this legislation, and when the monthly cost of Humira was $3,700 per month. But as you can see, the cost of Humira is now $6,900 per month. Shouldn't AbbVie—makers of Humira—disclose that price to you so you can use this information when making treatment decisions? If they did, AbbVie may think twice before raising the price.

Our DTC bill is supported by Democrats and Republicans, the AARP, American Medical Association, American Hospital Association, and 88 percent of Americans. President Trump supported our bill. This bill has passed the Senate before. And several Republicans have included this provision in larger packages they have supported. The only opposition comes from one place: Pharma. They hate the idea of being honest with patients about the price of their drugs and they are looking for Senators to help keep their secret.

So when the Senate considers drug pricing legislation in the coming weeks, I will ask for a vote on this bipartisan policy. Senator GRASSLEY has been a great partner in this effort; and we will work to bring this dose of sunshine to the airwaves. It is about time Americans catch a break when it comes to the cost of drugs.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Drug-Price Transparency for Consumers Act of 2023'' or the ''DTC Act of 2023''.

SEC. 2. FINDINGS; SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds the following:

(1) Direct-to-consumer advertising of prescription pharmaceuticals is legally permitted in only 2 developed countries, the United States and New Zealand.

(2) In 2018, pharmaceutical ad spending exceeded $6,046,000,000, a 4.8 percent increase over 2017, resulting in the average American seeing 9 drug advertisements per day.

(3) The most commonly advertised medication in the United States in 2020 had a list price of more than $6,000 for a one-month's supply.

(4) A 2021 Government Accountability Office report found that two-thirds of all direct-to-consumer drug advertising between 2016 and 2018 was concentrated among 39 brand-name drugs or biologicals, about half of which were recently approved by the Food and Drug Administration.

(5) According to a 2011 Congressional Budget Office report, pharmaceutical manufacturers advertise their products directly to consumers in an attempt to boost demand for their products and thereby raise the price that consumers are willing to pay, increase the quantity of drugs sold, or achieve some combination of the two.

(6) Studies, including a 2012 systematic review published in the Annual Review of Public Health, a 2005 randomized trial published

in the Journal of the American Medical Association, and a 2004 survey published in Health Affairs, show that patients are more likely to ask their doctor for a specific medication and for the doctor to write a prescription for it, if a patient has seen an advertisement for such medication, even if such medication is not the most clinically appropriate for the patient or if a lower-cost generic medication may be available.

(7) According to a 2011 Congressional Budget Office report, the average number of prescriptions written for newly approved brand-name drugs with direct-to-consumer advertising was 9 times greater than the average number of prescriptions written for newly approved brand-name drugs without direct-to-consumer advertising.

(8) The Centers for Medicare & Medicaid Services is the single largest drug payer in the United States. Between 2016 and 2018, 58 percent of the $560,000,000,000 in Medicare drug spending was for advertised drugs, and in 2018 alone, the 20 most advertised drugs on television cost Medicare and Medicaid a combined $34,000,000,000.

(9) A 2021 Government Accountability Office report found that direct-to-consumer advertising may have contributed to increases in Medicare beneficiary use and spending among certain drugs.

(10) The American Medical Association has passed resolutions supporting the requirement for price transparency in any direct-to-consumer advertising, stating that such advertisements on their own ''inflate demand for new and more expensive drugs, even when these drugs may not be appropriate''.

(11) A 2019 study published in the Journal of the American Medical Association found that health care consumers dramatically underestimate their out-of-pocket costs for certain expensive medications, but once they learn the wholesale acquisition cost (in this section referred to as the ''WAC'') of the product, they are far better able to approximate their out-of-pocket costs.

(12) Approximately half of Americans have high-deductible health plans, under which they often pay the list price of a drug until their insurance deductible is met. All of the top Medicare prescription drug plans use coinsurance rather than fixed-dollar copayments for medications on nonpreferred drug tiers, exposing beneficiaries to WAC prices.

(13) Section 119 of division CC of the Consolidated Appropriations Act, 2021 (Public Law 116–260) requires the Secretary of Health and Human Services to increase the use of real-time benefit tools to lower beneficiary costs. However, there still remains a lack of available pricing tools so patients may not learn of their medication's cost until after being given a prescription for the medication. A 2013 study published in The Oncologist found that one-quarter of all cancer patients chose not to fill a prescription due to cost.

(14) The Federal Government already exercises its authority to oversee certain aspects of direct-to-consumer drug advertising, including required disclosures of information related to side effects, contraindications, and effectiveness.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a lack of transparency in pricing for pharmaceuticals has led to a lack of competition for such pharmaceuticals, as evidenced by a finding by the Department of Health and Human Services that ''Consumers of pharmaceuticals are currently missing information that consumers of other products can more readily access, namely the list price of the product, which acts as a point of comparison when judging the reasonableness of prices offered for potential substitute products'' (84 Fed. Reg. 20735);

(2) in an age where price information is ubiquitous, the prices of pharmaceuticals remain shrouded in secrecy and limited to those who subscribe to expensive drug price reporting services, which typically include pharmaceutical manufacturers or other health care industry entities and not the general public;

(3) greater insight and transparency into drug prices will help consumers know if they can afford to complete a course of therapy before deciding to initiate that course of therapy;

(4) price shopping is the mark of rational economic behavior, and markets operate more efficiently when consumers have relevant information about a product, including its price, before making an informed decision about whether to buy that product;

(5) providing consumers with basic price information may result in the selection of lesser cost alternatives, all else being equal relative to the patient's care, and is integral to providing adequate competition in the market;

(6) the WAC is a factual, objective, and uncontroversial definition for the list price of a medication, in that it is defined in statute, reflects an understood place in the supply chain, and is at the sole discretion of the manufacturer to set;

(7) there is a governmental interest in ensuring that consumers who seek to purchase pharmaceuticals for purposes of promoting their health and safety understand the objective list price of any pharmaceutical that they are encouraged through advertisements to purchase, which allows consumers to make informed purchasing decisions; and

(8) there is a governmental interest in mitigating wasteful expenditures and promoting the efficient administration of the Medicare program by slowing the growth of Federal spending on prescription drugs.

SEC. 3. REQUIREMENT THAT DIRECT-TO-CONSUMER ADVERTISEMENTS FOR DRUGS AND BIOLOGICALS INCLUDE AN APPROPRIATE DISCLOSURE OF PRICING INFORMATION.

Part A of title XI of the Social Security Act is amended by adding at the end the following new section:

''SEC. 1150D. REQUIREMENT THAT DIRECT-TO-CONSUMER ADVERTISEMENTS FOR DRUGS AND BIOLOGICALS INCLUDE AN APPROPRIATE DISCLOSURE OF PRICING INFORMATION.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall require that each direct-to-consumer advertisement for a drug or biological for which payment is available under title XVIII or XIX and which is required to include the information relating to side effects, contraindications, and effectiveness described in section 202.1(e)(1) of title 21, Code of Federal Relations (or any successor regulation) also include an appropriate disclosure of pricing information, as described in subsection (b), with respect to such drug or biological.

''(2) EXEMPTION.—The requirement under paragraph (1) shall not apply to a drug or biological for which the wholesale acquisition cost for a 30-day supply of (or, if applicable, a typical course of treatment for) such drug or biological is less than $35.

''(b) APPROPRIATE DISCLOSURE OF PRICING INFORMATION.—For the purposes of subsection (a), an appropriate disclosure of pricing information, with respect to a drug or biological, shall—

''(1) disclose of the wholesale acquisition cost for a 30-day supply of (or, if applicable, a typical course of treatment for) such drug or biological; and

''(2) be presented clearly and conspicuously.

''(c) RULEMAKING.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Administrator of the Centers for Medicare and Medicaid Services, shall promulgate final regulations to carry out this section, including—

''(1) the visual and audio components required to communicate the wholesale acquisition cost in the appropriate manner for the medium of the advertisement;

''(2) the reasonable amount of time a manufacturer has to update any direct-to-consumer advertisement to reflect any change to the wholesale acquisition cost of the advertised drug or biological; and

''(3) the way in which a manufacturer may include a brief statement explaining that certain consumers may pay a different amount depending on their insurance coverage.

''(d) SANCTIONS.—Any manufacturer of a drug or biological, or an agent of such manufacturer, that violates the requirement of this section may be subject to a civil money penalty of not more than $100,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under the preceding sentence in the same manner as they apply to a penalty or proceeding under section 1128A(a).

''(e) PUBLIC REPORTING SYSTEM.—In order to enforce the requirement under this section, the Secretary may establish a public reporting system—

''(1) to build awareness of such requirement; and

''(2) allow for reporting of manufacturers that fail to comply with such requirement.

''(f) DEFINITIONS.—In this section:

''(1) DRUG AND BIOLOGICAL.—The terms 'drug' and 'biological' have the meaning given such terms in section 1861(t).

''(2) WHOLESALE ACQUISITION COST.—The term 'wholesale acquisition cost' has the meaning given such term in section 1847A(c)(6)(B).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the purposes of carrying out this section.''.

By Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. BOOKER, Mr. OSSOFF, Ms. BALDWIN, Mr. VAN HOLLEN, Mr. WICKER, Ms. LUMMIS, and Mr. BROWN):

S. 1251. A bill to reform sentencing laws and correctional institutions, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''First Step Implementation Act of 2023''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: